

**Town of Milford  
Zoning Board of Adjustment  
November 17, 2011  
Case #17-11  
CRJ Properties, LLC  
Request for a Re-hearing (Special Exception)**

Present: Kevin Johnson, Chairman  
Fletcher Seagroves  
Steve Winder

Absent: Steve Bonczar  
Laura Horning  
Zach Tripp – Alternate  
Michael Unsworth – Alternate  
Len Harten – Alternate

Secretary: Peg Ouellette

The applicant, CRJ Properties, LLC, Owner of 64 Oak Street, Map 43, Lot 18, in the Commercial District is requesting a rehearing for a special exception from Article V, Section 5.05.2:A.3 for the placement of an office trailer 1.7 ft. from the side property line.

Minutes for case #17-11- Request for a re-hearing were approved on April 05, 2012

Before considering the request for re-hearing, the Chairman read into the record the following information which is summarized from the New Hampshire statutes and handbook published by the NH Office of Energy and Planning, *The Board of Adjustment in New Hampshire*. It is available on the State of New Hampshire web site. The Chairman stated he summarized those portions directly affecting Zoning Boards. The first two sections are from the RSAs (Revised Statutes Annotated), the NH Laws dealing with all town governmental boards, whether decisions by the Board of Selectmen, Planning Department, Zoning Department, or any of the other bodies; therefore there is a lot of information within them that is not particularly applicable to the Zoning Board. He read from RSA 677:2: *Within 30 days after any decision of the zoning board of adjustment, the selectmen, any party to the proceeding, or any person directly affected thereby may apply for a rehearing, specifying in the Motion for Rehearing the grounds therefore and the board of adjustment may grant such rehearing if, in its opinion, good reason is stated in the motion.*

He then read from RSA 677:3: *A Motion for Rehearing shall set forth fully every ground upon which it is claimed that the decision is unlawful or unreasonable.*

K. Johnson then said the handbook contains Annotations which describe various court decisions and interpretations which have been given to expand on what is specified under the RSAs, and he read as follows: *A Motion for Rehearing must describe why it is necessary and why the original decision may be unlawful or unreasonable.*

*The meeting to consider a Motion for Rehearing is a public meeting and anyone has the right to attend; but all the board is acting upon is the motion in front of them. It is NOT public hearing and no testimony is taken and does not involve comments by the applicant, petitioner, or abutters. If the board believes there are sufficient grounds to reconsider their original decision, the motion should be granted; if not, the motion should be denied.*

*If the Board decides to grant the rehearing, a new public hearing is scheduled and all legal actions, such as public notice (as required for the first hearing), must be followed. If possible, the same board members from the original hearing should be present at the rehearing. If the board decides not to grant the rehearing, all they must do is inform the petitioner that the rehearing was denied and that the petitioner then has 30 days to challenge the decision by appealing to Superior Court.*

*A person has a right to apply for a rehearing and the board has the authority to grant it. However, the board is not required to grant the rehearing and should use its judgment in deciding whether justice will be served by so doing. In trying to be fair to a person asking for a rehearing, the board may be unfair to others who will be forced to defend their interests for a second time.*

*It is assumed that every case will be decided, originally, only after careful consideration of all evidence on hand and on the best possible judgment of the individual members. Therefore, no purpose is served by granting a rehearing unless the petitioner claims a technical error has been made or he can produce new evidence that was not available to him at the time of the first hearing. The evidence might reflect a change in conditions that took place since the first hearing or information that was unobtainable because of the absence of key people, or for other valid reasons. The board, and those in opposition to the appeal, should not be penalized because the petitioner has not adequately prepared his original case and did not take the trouble to determine sufficient grounds and provide facts to support them.*

K. Johnson then read from the Town Ordinances which give the Board authority for a rehearing, Section 10.04.0: *Rehearings by the Board of Adjustment shall be conducted in accordance with NH RSA 677:2 and:3. Appeals from the Board of Adjustment's decision on a motion for rehearing shall be conducted in accordance with NH RSA 677:4 through :14.*

K. Johnson read the application by Eco Stoneworks requesting a rehearing on Case 17-11: "To Town of Milford Zoning Board From: Eco Stoneworks We would like to request a second hearing regarding the placement of our office trailer. We feel that it is in the best possible location and is in fact in the only location where it does not get in the way of normal business. The routes that delivery trucks take on the

premises would be compromised to a point that it would severely cripple the way we do business. It is very hard to get a firm grasp of what the possibilities for placement are by looking at an overhead photo or site plan. Even taking regular photographs wouldn't do any justice. For this reason we would request that the board members take the time to do a site walk before the next meeting. Since we've moved into the office trailer it has been used as a sales office more and more. Since the three principals use the office trailer as their personal office are in charge of the sales for entire company it is inevitable that customer's are brought inside. Since the material that is being sold is located in close proximity to the trailer it is convenient and safe for the customer's. In the winter it is imperative to not have the customer's walk on the ice as much as possible. Since the parking lot and driveway are dirt it is near impossible to keep it ice free. I hope you can see the need to have this looked at more closely as it will affect day to day operations greatly if the trailer is moved. Sincerely, Josh Tannariello, VP Eco Stoneworks Corp. "

K. Johnson asked the Board for comments.

F. Seagroves said he did not think they had brought anything new to the Board; they still want to leave the trailer 1.7 ft from the property line and had not given the Board any additional information; they just want to leave the trailer where it is.

S. Winder agreed that there was not enough information to review the case; the applicant has not presented enough new evidence to substantially consider it.

F. Seagroves said he did not think a site walk would help the Board.

K. Johnson said he did a site walk, took pictures and understands the layout of the property. From their application the only thing he saw that they are stressing is the convenience. In looking at the site plan and photographs provided to the Board there are other areas in which the trailer could be placed which would require moving some of the materials from where they are currently stored. He stated, again, that is for the convenience of the business. Re their complaint that it is a dirt parking lot and customers have to walk in the dirt parking lot in winter, if that is a concern then they can pave that parking lot. That is within their prerogative and it is not the Board's purview to make it easy for them to do business; it is for the Board to decide what is in the best interests of the applicant, the abutters and the town.

K. Johnson asked for any additional discussion. There was none.

K. Johnson requested a motion to either approve or deny the request for rehearing.

F. Seagroves made a motion to deny the request for rehearing.

S. Winder seconded.

All voted in favor.

The request for rehearing for Case #17-11 was unanimously denied.